

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D.C. Chartered HEALTH PLAN, INC.,

Respondent.

Civil Action No. 2012 CA 008227 2
Judge Anthony C. Epstein
Calendar 15
Next Event: Status Hearing
July 9, 2021, at 11:00 am

THE REHABILITATOR’S MOTION TO DISPOSE OF RECORDS

COMES NOW Karima M. Woods, Commissioner of the District of Columbia Department of Insurance, Securities and Banking (“DISB”), in her statutory capacity as Rehabilitator of D.C. Chartered Health Plan, Inc. (“Chartered”), by and through Daniel L. Watkins, Special Deputy Rehabilitator (collectively referred to as “Rehabilitator”) and their attorney, and requests that this Court enter an Order authorizing the Rehabilitator to dispose estate records no longer needed in the Rehabilitation.

In support of this Application, the Rehabilitator respectfully shows and represents to the Court the following:

1. Chartered is a District of Columbia-domiciled Health Maintenance Organization (“HMO”). On October 19, 2012 (“Rehabilitation Date”), this Court entered its Rehabilitation Order appointing the Commissioner DISB as the Rehabilitator for Chartered.

2. Pursuant to the Rehabilitation Order and D.C. Code §§ 31-1303, 31-1310 through 31-1312, and 31-3420, the Rehabilitator acts for and on behalf of Chartered, and is vested by

operation of law with title to all of the property, contracts, rights of action, and books and records of Chartered. In accordance with D.C. Code §§ 31-1303, *et. seq.*, the Rehabilitator has marshaled all known assets of Chartered and administered them under the general supervision of this Court pursuant to the Plan of Reorganization approved by the Court on March 1, 2013. Periodic reports and accountings to the Court have been filed by the Rehabilitator.

3. At March 31, 2021, the remaining assets of Chartered totaled \$4,560,269 in cash. There are no restrictions or encumbrances upon these assets, which are available to pay remaining Class 1 expenses and Class 3 claims of Chartered.

4. The remaining assets are sufficient to pay administrative costs necessary to close the estate and to make a final distribution to healthcare providers in partial satisfaction of their claims as provided in the court approved Plan of Reorganization (“Plan”) which established a priority order of creditors. However, there are insufficient assets to pay 100% of healthcare providers’ Class 3 claims.¹

5. The Chartered estate possesses voluminous paper records located at a commercial storage facility (“Iron Mountain”), at the Rehabilitator’s office in Lawrence, Kansas, and at Chartered’s contract accountant’s offices in St. Louis, Missouri and Charlotte, North Carolina. Most of these records are no longer needed in the administration of the estate and should be destroyed. Financial and tax records and tax returns of Chartered currently held at the contract accountants’ offices are to be delivered to D.C. Healthcare Systems, Inc. (“DCHSI”) pursuant to a settlement agreement with DCHSI approved by the Court on December 4, 2020.

¹ Total Class 3 healthcare provider claims and appeals allowed in the Rehabilitation totaled \$67,035,642. In 2013 and 2014, the Rehabilitator distributed \$56,563,378 to healthcare providers, satisfying 83.88% of the total claim amounts. As a balance of \$10,472,264 in healthcare provider claims remain unpaid, there are not assets sufficient to pay this balance in full.

6. Chartered has 11,300 boxes of records stored at Iron Mountain at a monthly cost of \$6,853/month. No further activity is necessary on 9,700 boxes of Chartered's records at an Iron Mountain facility and the Rehabilitator therefore proposes that these records be destroyed. These boxes consist of claim files, enrollee files, financial reports, computer printouts, voluminous correspondence, regulatory records, reinsurance matters and other files. The cost to retrieve, shred and dispose of these 9,700 boxes of records at Iron Mountain is \$179,761.93 (\$18.16/box, plus taxes).

7. In addition to the 9,700 boxes of Chartered's records at Iron Mountain there are an additional 1,600 boxes with medical records stored there related to the Chartered Family Health Center (CFHC). These records date from 2008 and prior years. Chartered transferred control of CFHC to Unity Healthcare in February 2011 along with the medical records of CFHC's then-current clients. Records of CFHC clients who had not used CHCF services in 2009-2010 remained with Chartered. These CFHC medical records of clients not using CFHC services since 2008 have remained under Chartered's control at Iron Mountain. The medical records of former CFHC clients must be maintained until pediatric clients reach 18 years of age. As a result, up to an additional five years of storage is necessary to ensure pediatric records are not destroyed until former patients' 18th birthdays are reached. Unity Healthcare has agreed to accept responsibility for maintaining the storage of the Chartered's CFHC records until they can be disposed. The monthly cost of storing the records at Iron Mountain is \$1,211/month. The cost for an additional 5 years of storage of these records when all prior clients will be over the age of 18 is \$72,000. The projected cost of disposing the 1,600 boxes is \$27,200. In order to allow the Chartered estate to close in 2021 with the distribution of its remaining assets to healthcare providers, the Rehabilitator requests that the Court approve payment of \$99,200

(\$72,000 storage cost + \$27,200 disposal cost) to Unity Healthcare from Chartered's assets for Unity Healthcare to assume responsibility for the storage and ultimate disposal of these CFHC records.

8. Extensive electronic records of Chartered are stored on computer servers at AmeriHealth in Washington, D.C. and at Ankura, a service provider (formerly Navigant), and are also no longer needed in the administration of the estate. The monthly cost for maintaining the Relativity database and other data storage at Ankura is \$6,300. There is no cost for data storage at Amerihealth. With all litigation now dismissed, the litigation holds on these electronic records are no longer in force. Accordingly, those records need to be disposed of by the Rehabilitator so the monthly storage costs at Ankura can terminate and Amerihealth can end its maintenance of servers and records which are no longer needed.

9. The Rehabilitator seeks authority from the Court to: 1) dispose of the records described herein which are no longer needed in the administration of this estate; 2) transfer Chartered's CFHC records to Unity Healthcare with payment for maintenance and disposal as discussed herein; and 3) transfer financial and tax records held by Chartered's contract accountants to DCHSI per the Court approved settlement.

10. The Rehabilitator requests that the Order approving this Motion to Dispose of Records authorize 1) payment to Iron Mountain of \$179,761.93 for destruction of 9,700 boxes of Chartered records; 2) payment of \$99,200 to Unity Healthcare to assume custody, control, storage and ultimate destruction of 1,600 boxes of Chartered Family Health Center records; 3) disposal of electronic records at Ankura and Amerihealth and payment of any attendant costs of such disposal; and 4) transfer of accounting, financial and tax records held by Chartered's accountants to DCHSI.

WHEREFORE, the Rehabilitator hereby moves this Court to Order approval of record disposal and attendant costs as set forth herein. The Rehabilitator hereby requests that the Court enter said Order without a hearing on this Application unless a specific objection, with a request for hearing, is filed with the Court and served upon the Rehabilitator within fourteen (14) days of the filing of this Application.

Date: April 29, 2021

Respectfully submitted,

/s/ Richard E. Hagerty

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*Attorneys for the Rehabilitator and D.C. Chartered
Health Plan, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2021 a copy of the foregoing *Motion to Dispose of Records*, and Proposed Order was filed and served by e-mail upon:

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c/o Adam Levi
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I further certify that on this 29th day of April, 2021, true and correct copies of these documents were mailed via first-class mail, postage prepaid, to the attached list of 30 largest Class 3 creditors.

/s/ Richard E. Hagerty

Richard E. Hagerty

30 LARGEST CLASS 3 CREDITORS

MedStar Health:
c/o Joe Edmondson
Foley & Gardner LLP
3000 K St., NW Suite 600
Washington, DC 20007

Children's National Hospital
c/o Mary Anne Hilliard, Exec. VP & Chief Legal Officer
111 Michigan Avenue, NW
Washington, DC 20010

Providence Hospital/Ascension
c/o Christine Kocot McCoy, Exec. VP & General Counsel
101 South Hanley Rd., Suite 450
St. Louis, MO 63105

Howard University Hospital/Adventist
c/o Anita Jenkins CEO
2041 Georgia Avenue
Washington, DC 20060

United Medical Center
c/o Wayne Turnage
1350 Pennsylvania NW
Washington, DC 20004
D.C. Fire Department
Executive Office of the Mayor

George Washington Hospital
Steve Bender, General Counsel
2150 Pennsylvania Ave. NW
Washington, DC
George Washington MFA

Unity HealthCare
c/o Vince Keane
1220 12th St. SE, Suite 120
Washington, DC 20003

DentaQuest
c/o Dominion Dental Services
ATTN: Brad Terry, Director Legal Affairs
251 18th St South, Suite 900
Arlington, VA 22202

Beacon Health Options
c/o Jim Spink
200 State Street
Boston, MA 02110

National Rehabilitation Hospital (MedStar)
c/o John Rockwood, President and Oliver Johnson VP & Gen. Counsel
102 Irving St. NW
Washington, DC 20010

SWH-Hadley, c/o Bridgepoint Healthcare
c/o Mark Ferrell CEO
4601 Martin Luther King
Washington, DC 20032

Dimensions Healthcare
Nathanial Richardson, Jr.
3001 Hospital Dr
Cherverly, MD 20785

DVA Healthcare Renal Care
James Hilger, Chief Accounting Officer
1231 Brentwood Rd, NE
Washington, DC 20018-1019

HSC Pediatric Center
c/o Nathaniel Beers, CEO
1731 Bunker Hill Rd, NE
Washington, DC 20017

LaClinica Del Pueblo
c/o Catalina Sol, Executive Director
2831 15th St
Washington DC 20009

Doctors Community Hospital
c/o Luminis Health, ATTN: Deneen Richmond, President
8118 Good Luck Rd
Lanham, MD 20706

Marys Center Maternal Child
c/o Maria Gomez, CEO
2333 Ontario Rd.
Washington, DC 20009

Anacostia River Emergency Physicians
c/o Russell Harris, President
1310 Southern Ave SE
Washington DC 20032-4623

Mid Atlantic Healthcare EMC Emergency Physicians
c/o Mark Smith, Owner
PO Box 7206
Philadelphia, PA 19101-7206

Harminder Sethi
1160 Varnum St NE Ste 318
Washington, DC 20017

Community of Hope Health Services
c/o Kelly Sweeney McShane, President
4 Atlantic Street SW
Washington, DC 20032

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Department of Insurance, Securities
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D.C. CHARTERED HEALTH PLAN, INC.,

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[PROPOSED] ORDER APPROVING REHABILITATOR'S
MOTION TO DISPOSE OF RECORDS

On April 29, 2021, D.C. Chartered Health Plan, Inc., acting through its Rehabilitator, Special Deputy to the Rehabilitator and their attorney ("Chartered"), filed the *Rehabilitator's Motion to Dispose of Records* (the "Motion"). The Motion asked the Court to enter an order authorizing the Rehabilitator to dispose of the paper and electronic records Chartered no longer needs in the administration of its estate.

On consideration of the Motion, the arguments of counsel, if any, and the entire record herein; and no person having filed an objection to the Motion; it is, this ____ day of _____, 2021,

ORDERED, that the Motion be and hereby is **GRANTED**; and it is further

ORDERED, that the Rehabilitator may dispose of Chartered's records in the manner proposed in the Motion and expend estate funds for this purpose consistent with the costs set out in the motion, including \$179,761.93 to Iron Mountain for destruction of 9,700 boxes of records, and \$99,200 to Unity Healthcare for assuming responsibility for the storage and ultimate destruction of Chartered Family Health Center records at Iron Mountain, attendant costs for

disposing of electronic records at Ankura and Amerihealth, and shipping costs to transfer Chartered's financial and tax records to D.C. Healthcare Systems, Inc; and it is further

ORDERED, that the Rehabilitator is expressly authorized and permitted to destroy and dispose of electronic records maintained at Ankura in response to a federal grand jury subpoena relating to a criminal investigation that has been completed.

Anthony C. Epstein
Signed in Chambers

Copies via electronic service to:

Richard E. Hagerty, Esq.
S. Mohsin Reza, Esq.
John Lui, Esq.

Copies sent by mail to:

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Attached list of 30 largest Class 3
creditors